

### **REMARKS/ARGUMENTS**

Applicants have reviewed and analyzed the Office Action dated June 1, 2007, and provide the following remarks and comments in response thereto. Applicants note that the undersigned is new counsel of record pursuant to the Power of Attorney filed September 21, 2007. Claim 35 has been cancelled. Claims 1-9, 11-33 and 36 have been amended. No new matter has been added. Claims 1-34 and 36 are pending upon entry of the present amendment.

#### ***Claim Rejections Under 35 U.S.C. §112***

Claims 1-34 and 36 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants have amended the claims, thus rendering this rejection moot.

#### ***Claim Rejections Under 35 U.S.C. §102***

Claims 1-5, 7, 9-15, 18-31, 33, 34 and 36 stand rejected under 35 U.S.C. §102(e) as being unpatentable by Reynolds *et al.* (U.S. Patent Pub. No. 2001/0037500, "Reynolds"). This rejection is respectfully traversed.

Amended independent claim 1 recites, *inter alia*, delaying the insertion of a separate second media until another portion of the first broadcast stream having a third priority indicator in response to determining that a first priority indicator associated with a first portion of the first broadcast stream is greater than a second priority indicator associated with the separate second media, the third priority indicator being less than the second priority indicator. Reynolds fails to teach or suggest such feature. For example, nowhere does Reynolds teach or suggest the *delay* of the insertion of a separate second media if a first priority indicator of a portion of a first broadcast stream is greater than the priority indicator of the separate second media. At most, Reynolds merely discloses that if a priority level in the extracted announcement is higher, then substitution will not be allowed. p. 3, para. [0037]. That is, Reynolds is silent with respect to any delay of the insertion if the priority level in the extracted announcement is higher than a processor's own priority level. Further, Reynolds also fails to teach or suggest delaying the insertion until another portion of the first broadcast stream having a third priority indicator. Accordingly, claim 1 is allowable for at least these reasons.

Amended independent claim 11 and 26 recite features similar to those discussed with respect to claim 1 and are thus allowable for at least the same reasons as claim 1 and further in view of the novel and non-obvious features recited therein.

Amended independent claim 20 relates to, *inter alia*, a receiver in a set-top box, the receiver configured to receive a first broadcast stream associated with a first priority indicator over a first network, wherein the first priority indicator is received through ***a second network different from the first network***. Reynolds is devoid of a teaching or suggestion that priority indicators for a broadcast stream are received on a network different from a network through which the broadcast stream is received. Accordingly, claim 20 is allowable for at least this reason.

Amended independent claim 36 recites features similar to those discussed with respect to claim 20 and is thus allowable for at least the same reasons as claim 36 and further in view of the novel and non-obvious features recited therein.

Claims 2-5, 7, 9, 10, 12-15, 18, 19, 21-25, 27-31, 33 and 34 are dependent on claims 1, 11, 20 and 26, respectively, and are thus allowable for at least the same reasons as their base independent claim.

#### ***Claim Rejections Under 35 U.S.C. §103***

Claims 6 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Reynolds. Claims 8, 17 and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Reynolds in view of Bullock *et al.* (U.S. Patent No. 5,070,404, "Bullock").

In the Office Action's rejection of claims 6 and 16, the Office Action takes Official Notice that notification of an e-mail message is notoriously well known in the art. Even assuming, without conceding, that the asserted Official Notice is valid, the asserted taking of Official Notice does not cure the above identified deficiencies of claims 1 and 11, upon which claims 6 and 16 depend, respectively. Accordingly, claims 6 and 16 are allowable for at least these reasons.

Claims 8, 17 and 32 are dependent on claims 1, 11 and 26, respectively, and are thus allowable over Reynolds for at least the same reasons as their base independent claim. Bullock fails to cure the deficiencies of Reynolds and thus, notwithstanding whether the asserted

